

ASSEMBLY, No. 846

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen COTTRELL and MALONE

1 AN ACT concerning deductions from real property taxes for citizens
2 and residents of this State of the age of 65 or more years, or less
3 than 65 years of age who are permanently and totally disabled,
4 amending P.L.1963, c.172, P.L.1964, c.255 and P.L.1976, c.129
5 and supplementing chapter 4 of Title 54 of the Revised Statutes.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. Section 1 of P.L.1963, c.172 (C.54:4-8.40) is amended to read
11 as follows:

12 1. As used in this act:

13 (a) "Income" means all income from whatever source derived
14 including, but not limited to, realized capital gains except for a capital
15 gain resulting from the sale or exchange of real property, of shares in
16 a cooperative or mutual housing corporation entitling a
17 tenant-stockholder to occupy a residential unit therein, and of a
18 manufactured home in a mobile home park, owned and used by the
19 taxpayer as his principal residence, and on which he received a
20 deduction allowed by this act, and, in their entirety, pension, annuity
21 and retirement benefits. For the purpose of claiming a deduction from
22 taxes for any tax year, pursuant to this act, "income" shall be deemed
23 to be equal in amount to the income which the taxpayer reasonably
24 anticipates he will receive during the tax year for which such deduction
25 is claimed and shall be exclusive of benefits under any one of the
26 following:

27 (1) The federal Social Security Act and all amendments and
28 supplements thereto;

29 (2) Any other program of the federal government or pursuant to
30 any other federal law which provides benefits in whole or in part in
31 lieu of benefits referred to in, or for persons excluded from coverage
32 under, (1) hereof including but not limited to the federal Railroad

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 Retirement Act and federal pension, disability and retirement
2 programs; or

3 (3) Pension, disability or retirement programs of any state or its
4 political subdivisions, or agencies thereof, for persons not covered
5 under (1) hereof; provided, however, that the total amount of benefits
6 to be allowed exclusion by any owner under (2) or (3) hereof shall not
7 be in excess of the maximum amount of benefits payable to, and
8 allowable for exclusion by, an owner in similar circumstances under
9 (1) hereof.

10 (b) "Permanently and totally disabled" means total and permanent
11 inability to engage in any substantial gainful activity by reason of any
12 medically determinable physical or mental impairment, including
13 blindness. For purposes of this subsection, "blindness" means central
14 visual acuity of 20/200 or less in the better eye with the use of a
15 correcting lens. An eye which is accompanied by a limitation in the
16 fields of vision such that the widest diameter of the visual field
17 subtends an angle no greater than 20 degrees shall be considered as
18 having a central visual acuity of 20/200 or less.

19 (c) "Pretax year" means the calendar year immediately preceding
20 the "tax year."

21 (d) "Post-tax year" means the calendar year immediately following
22 the "tax year."

23 (e) "Resident" means one legally domiciled within the State of New
24 Jersey for a period of one year immediately preceding October 1 of the
25 pretax year. Mere seasonal or temporary residence within the State,
26 of whatever duration, shall not constitute domicile within the State for
27 the purposes of this act. Absence from this State for a period of 12
28 months shall be prima facie evidence of abandonment of domicile in
29 this State. The burden of establishing legal domicile within the State
30 shall be upon the claimant.

31 (f) "Deduction" means the senior citizen's deduction or the
32 deduction for the permanently and totally disabled against the taxes or
33 annual municipal service fees payable by any person, allowable
34 pursuant to this act.

35 (g) "Tax year" means the calendar year in which the general
36 property tax or annual municipal service fee is due and payable.

37 (h) "Cooperative" means a housing corporation or association
38 incorporated or organized under the laws of New Jersey which entitles
39 a shareholder thereof to possess and occupy for dwelling purposes a
40 house, apartment or other structure owned or leased by the
41 corporation or association;

42 (i) "Mutual housing corporation" means a corporation
43 not-for-profit incorporated under the laws of New Jersey on a mutual
44 or cooperative basis within the scope of section 607 of the "National
45 Defense Housing Act," Pub.L.76-849 (42 U.S.C. § 1521 et seq.),
46 which acquired a National Defense Housing Project pursuant to that

1 act.

2 (j) "Real property" and "property" includes a manufactured home
3 installed in a mobile home park as defined in section 3 of the
4 "Manufactured Home Taxation Act," P.L.1983, c.400 (C.54:4-1.4).

5 (k) "Tax," "taxes," "taxation," and "tax assessed against real
6 property" includes periodic charges by a cooperative or mutual
7 housing corporation made upon its shareholders on account of
8 property taxes and an annual municipal service fee imposed on
9 manufactured homes installed in mobile home parks pursuant to the
10 "Manufactured Home Taxation Act," P.L.1983, c.400 (C.54:4-1.2 et
11 seq.).

12 (l) "Taxpayer" includes a resident shareholder in a cooperative or
13 mutual housing corporation and an owner of a manufactured home in
14 a mobile home park who is required to pay a municipal service fee.
15 (cf: P.L.1989, c.252, s.1)

16

17 2. Section 2 of P.L.1963, c.172 (C.54:4-8.41) is amended to read
18 as follows:

19 2. Every person, a citizen and resident of this State of the age of
20 65 or more years, or less than 65 years of age who is permanently and
21 totally disabled, having an annual income not in excess of the
22 limitations provided in this section and residing in a dwelling house
23 owned by him which is a constituent part of his real property or
24 residing in a dwelling house owned by him which is assessed as real
25 property but which is situated on land owned by another or others, or
26 residing as a tenant shareholder in a cooperative or mutual housing
27 corporation, or residing in a manufactured home in a mobile home
28 park, shall be entitled, annually, on proper claim being made therefor,
29 to a deduction against the tax or taxes assessed against such real
30 property, to an amount not exceeding the amount of said tax, the
31 proportionate share of said tax attributable to his unit, or the sum
32 provided in this section, whichever is the lesser, but no such deduction
33 from taxes shall be in addition to any other deduction or exemption
34 from taxes to which said person may be entitled, except a veteran's
35 deduction provided under P.L.1963, c.171 (C.54:4-8.10 et seq.). A
36 citizen and resident granted a deduction pursuant to this section may
37 receive in addition any homestead rebate or credit provided by law.

38 For the purposes of this section, the annual income limitation shall
39 be: \$5,000.00 for any year prior to 1981; \$8,000.00 for the year 1981;
40 \$9,000.00 for the year 1982; and \$10,000.00 for year 1983 and each
41 year thereafter.

42 The sum deducted pursuant to this section shall not exceed:
43 in any year prior to 1981, \$160.00; in the year 1981, \$200.00; in the
44 year 1982, \$225.00; and in the year 1983 and in each year thereafter,
45 \$250.00.

46 For the purposes of this act:

1 a. The income of a married person shall be deemed to include an
2 amount equal to the income of the spouse during the applicable income
3 year, except for such portion of that year as the two were living apart
4 in a state of separation, whether under judicial decree or otherwise.

5 b. The requirement of ownership shall be satisfied by the holding
6 of a beneficial interest in the dwelling house where legal title thereto
7 is held by another who retains a security interest in the dwelling house.

8 c. A resident shareholder in a cooperative or a mutual housing
9 corporation shall be deemed the owner of legal title to his
10 proportionate share of the taxable value of the real property of the
11 corporation for the purpose of establishing a claim.

12 (cf: P.L.1989, c.252, s.2)

13
14 3. Section 4 of P.L.1976, c.129 (C.54:4-8.41a) is amended to read
15 as follows:

16 4. The surviving spouse of a deceased citizen and resident of this
17 State who during his or her life received a real property tax deduction
18 pursuant to this act shall be entitled, so long as he or she shall remain
19 unmarried and a resident in the same dwelling house, cooperative or
20 mutual housing corporation, or in the same manufactured home in the
21 same mobile home park with respect to which said deduction was
22 granted, to the same deduction, upon the same conditions, with
23 respect to the same real property, notwithstanding that said surviving
24 spouse is under the age of 65 and is not permanently and totally
25 disabled, provided that said surviving spouse is 55 years of age or
26 older at the time of the death of said citizen and resident.

27 (cf: P.L.1976, c.129, s.4)

28
29 4. Section 4 of P.L.1963, c.172 (C.54:4-8.43) is amended to read
30 as follows:

31 4. An application for a deduction hereunder may be filed with the
32 assessor of the taxing district on or before December 31 of the pretax
33 year. If an application is approved by the assessor, he shall allow a
34 deduction from the taxes assessed against the real property assessed
35 to the claimant, or to the cooperative or mutual housing corporation,
36 or to the owner of the mobile home park, as the case may be, as
37 described therein and shall indicate upon the assessment list and
38 duplicates the approval thereof in such manner as shall be prescribed
39 by rules of the Director of the Division of Taxation together with the
40 proportionate share of such property deemed to be owned by the
41 claimant for the purposes of this act if he is not the sole owner thereof.

42 Upon approval of the application for a tax deduction the tax
43 collector shall note in his records the existence of a contingent liability
44 for taxes in the amount of the deduction in the event the deduction is
45 subsequently disallowed on the basis of the taxpayer's income, the
46 transfer of title to the property to a person not entitled to such

1 deduction, or on the basis of the failure to meet any other prerequisites
2 required by this act for a tax deduction, which contingent liability shall
3 be reported on any tax search made on the property for which the
4 deduction was approved and on the records of the tax collector, and
5 of the cooperative or mutual housing corporation or mobile home park
6 owner, as the case may be.

7 The application, if not filed with the assessor within the time
8 aforementioned, may be filed with the collector during the tax year and
9 upon approval by the collector of such application he shall determine
10 the amount of the reduction in tax to which the claimant is entitled and
11 shall allow said amount as an offset against the tax then remaining
12 unpaid or shall provide that said amount be given as a credit to each
13 residential shareholder or manufactured home owner, as the case may
14 be. If the amount allowable as an offset shall exceed the amount of the
15 tax of the claimant then unpaid for that tax year, or if the application
16 for a tax deduction is not filed with the collector until after all taxes
17 for the tax year have been fully paid, the claimant may make
18 application to the governing body of the municipality constituting the
19 taxing district for the refund of any tax overpaid, but without interest,
20 and the governing body may, in its discretion, direct the return of any
21 tax deemed by it to have been overpaid by reason of claimant's failure
22 to make timely application for a tax deduction; provided, however,
23 that no application for a tax deduction for any previous tax year shall
24 be allowed by any assessor, collector or governing body. Where an
25 application for a tax deduction is filed with and allowed by a collector
26 he shall promptly transmit such application and all exhibits attached
27 thereto, or a photostatic copy thereof, to the assessor of the taxing
28 district. Upon receipt thereof the assessor shall review the application
29 and if approved by him it shall have the same force as if originally filed
30 with him.

31 (cf: P.L.1976, c.129, s.6)

32

33 5. Section 5 of P.L.1963, c.172 (C.54:4-8.44) is amended to read
34 as follows:

35 5. Every fact essential to support a claim for a deduction hereunder
36 shall exist on October 1 of the pretax year, except as in this section
37 otherwise provided. Every application by a claimant therefor shall
38 establish that he is or will be on or before December 31 of the pretax
39 year 65 or more years of age or on that date was permanently and
40 totally disabled, and that he was, on October 1 of the pretax year, (a)
41 a citizen and resident of this State for the period required, (b) the
42 owner of a dwelling house which is a constituent part of the real
43 property for which the deduction is claimed, the owner of a dwelling
44 house which is assessed as real property but which is situated on land
45 owned by another or others, or residing as a tenant shareholder in a
46 cooperative or mutual housing corporation, or an owner of a

1 manufactured home in a mobile home park, (c) residing in said
2 dwelling house, nonprofit cooperative or mutual housing corporation,
3 or manufactured home. Said application shall also establish that his
4 anticipated income, including the income of his or her spouse, for the
5 tax year will not exceed the applicable annual income limitation set
6 forth in section 2 of P.L.1963, c.172 (C.54:4-8.41). In the case of a
7 claim for a deduction by a person who is permanently and totally
8 disabled, said application shall include a physician's certificate
9 verifying the claimant's permanent and total disability. The Director of
10 the Division of Taxation may promulgate rules and regulations
11 prescribing the form and content of the certificate.

12 In the case of claims for a deduction authorized by section 4 of [this
13 amendatory and supplementary act] P.L.1976, c.129 (C.54:4-8.41a),
14 every application by a claimant therefor shall establish that he is or will
15 be on or before December 31 of the pretax year 55 or more years of
16 age and was 55 or more years of age at the time of the death of the
17 decedent and unmarried and that he was, on October 1 of the pretax
18 year, (a) a citizen and resident of this State for the period required, (b)
19 the owner of a dwelling house which is a constituent part of the real
20 property for which the deduction is claimed, or the owner of a
21 dwelling house which is assessed as real property but which is situated
22 on land owned by another or others, or residing as a tenant
23 shareholder in a cooperative or mutual housing corporation, or an
24 owner of a manufactured home in a mobile home park, (c) residing in
25 said dwelling house, cooperative or mutual housing corporation, or
26 manufactured home. Said application shall also establish that his
27 anticipated income for the tax year will not exceed the applicable
28 annual income limitation. The collector or the assessor of the taxing
29 district as the case may be shall establish whether the deceased spouse
30 of the claimant received a deduction.

31 (cf: P.L.1989, c.252, s.3)

32

33 6. Section 5 of P.L.1964, c.255 (C.54:4-8.44a) is amended to read
34 as follows:

35 5. Every person who is allowed a deduction shall, except as
36 hereinafter provided, be required to file with the collector of the taxing
37 district on or before March 1 of the post-tax year a statement under
38 oath of his income for the tax year and his anticipated income for the
39 ensuing tax year as well as any other information deemed necessary to
40 establish his right to a tax deduction for such ensuing tax year. The
41 collector may grant a reasonable extension of time for filing the
42 statement required by this section, which extension shall terminate no
43 later than May 1 of the post-tax year, in any event where it shall
44 appear to the satisfaction of the collector, verified by a physician's
45 certificate, that the failure to file by March 1 was due to illness or a
46 medical problem which prevented timely filing of the statement. In any

1 case where such an extension is granted by the collector, the required
2 statement shall be filed on or before May 1 of the post-tax year.

3 Such statement shall be on a form prescribed by the Director of the
4 Division of Taxation, in the Department of the Treasury and provided
5 for the use of persons required to make such statement by the
6 governing body of the municipality constituting the taxing district in
7 which such statement is required to be filed and shall be mailed by the
8 collector on or before February 1 of the post-tax year to each person
9 within the taxing district who was allowed a deduction in the
10 preceding year. Each collector may require the submission of such
11 proof as he shall deem necessary to verify any such statement. Upon
12 the failure of any such person to file the statement within time herein
13 provided or to submit such proof as the collector deems necessary to
14 verify a statement that has been filed, or if it is determined that the
15 income of any such person exceeded the applicable income limitation
16 for said tax year, his tax deduction for said tax year shall be
17 disallowed. A notice of disallowance, on a form prescribed by the
18 director, shall be mailed to that person by the collector on or before
19 April 1 of the post-tax year or, where an extension of time for filing
20 has been granted, no later than June 1, and his taxes to the extent
21 represented by the amount of said deduction shall be payable on or
22 before June 1 of the post-tax year or, where an extension of time for
23 filing has been granted no later than 30 calendar days after the notice
24 of disallowance was mailed, after which date if unpaid, said taxes shall
25 be delinquent, constitute a lien on the property, and, in addition, the
26 amount of said taxes shall be a personal debt of said person. In the
27 case of a deduction for a dwelling house owned by the claimant which
28 is assessed as real property but which is situated on land owned by
29 another or others, or for a residential unit in a cooperative or mutual
30 housing corporation, or for a manufactured home in a mobile home
31 park, taxes remaining unpaid thereafter shall be delinquent and the
32 amount of said taxes shall be a personal debt of said person. The
33 amount of any delinquent taxes remaining unpaid from an owner of a
34 manufactured home in a mobile home park shall, in addition, be
35 deemed rent for eviction purposes.

36 The amount of any lien and tax liability shall be prorated by the tax
37 collector upon the transfer of title based on the number of days during
38 the tax year that entitlement to the tax deduction is established. [The]
39 A lien and tax liability shall be considered satisfied by the tax collector
40 upon payment of the prorated amount for that portion of the tax year
41 for which entitlement to the tax deduction is not established.

42 (cf: P.L.1985, c.505, s.1)

43

44 7. Section 7 of P.L.1963, c.172 (C.54:4-8.46) is amended to read
45 as follows:

46 7. Where title to property as to which a deduction is claimed is

1 held by claimant and another or others, either as coowners or tenants
2 in common or as joint tenants, claimant shall not be allowed a
3 deduction in an amount in excess of his proportionate share of the
4 taxes assessed against said property, which proportionate share, for
5 the purposes of this act, shall be deemed to be equal to that of each of
6 the other tenants or coowners, unless it is shown that the interests in
7 question are not equal, in which event claimant's proportionate share
8 shall be as shown. Nothing herein shall preclude more than one tenant
9 or coowner, whether title be held in common or joint tenancy, from
10 claiming a deduction from the taxes assessed against the property so
11 held, but no more than the equivalent of one full deduction in regard
12 to such property shall be allowed in any year, and in any case in which
13 the claimants cannot agree as to the apportionment thereof, such
14 deduction shall be apportioned between or among them in proportion
15 to their interest. Property held by husband and wife, as tenants by the
16 entirety, shall be deemed wholly owned by each tenant, but no more
17 than one deduction in regard to such property shall be allowed in any
18 year. Right to claim a deduction hereunder shall extend to property
19 the title to which is held by a partnership, to the extent of the
20 claimant's interest as a partner therein, and by a guardian, trustee,
21 committee, conservator or other fiduciary for any person who would
22 otherwise be entitled to claim such deduction hereunder, but not to
23 property the title to which is held by a corporation; except that a
24 residential shareholder in a cooperative or mutual housing corporation
25 shall be entitled to claim a deduction he is otherwise eligible to
26 receive, to the extent of the proportionate share of the taxes assessed
27 against the real property of the corporation, or any other entity
28 holding title, attributable to his unit therein.

29 (cf: P.L.1989, c.252, s.4)

30

31 8. (New section) a. When an application by a shareholder in a
32 cooperative or mutual housing corporation is allowed, the assessor
33 shall promptly notify the corporation, setting forth the amount of the
34 deduction, and shall send a duplicate of the notice to the shareholder.

35 b. The tax collector shall credit to each cooperative or mutual
36 housing corporation the total amount of deductions allowed to its
37 shareholders in each tax year against the taxes payable by the
38 corporation in that year.

39 c. A cooperative or mutual housing corporation shall credit upon
40 its books each shareholder to whom a deduction has been allowed, and
41 shall proportionately reduce the periodic charges made to him on
42 account of taxes. Each statement of periodic charges presented to the
43 shareholder shall distinctly indicate: (1) his proportional share of the
44 corporation's taxes, without allowance for the deduction, and (2) the
45 amount by which that share is reduced for the period covered by the
46 statement; and a copy of the statement shall be filed with the tax

1 collector.

2

3 9. (New section) a. When an application by an owner of a
4 manufactured home in a mobile home park is allowed, the assessor
5 shall promptly notify the owner of the mobile home park in which the
6 home is installed, setting forth the amount of the deduction, and shall
7 send a duplicate of the notice to the manufactured home owner.

8 b. The tax collector shall credit to each qualified manufactured
9 home owner the amount of the deduction allowed against the annual
10 municipal service fee imposed pursuant to the "Manufactured Home
11 Taxation Act," P.L.1983, c.400 (C.54:4-1.2 et seq.). A mobile home
12 park owner shall proportionately reduce the monthly collection of the
13 municipal service fee from a qualified manufactured home owner.

14

15 10. This act shall take effect immediately, but remain inoperative
16 until a constitutional amendment, which allows the granting of the
17 senior citizen's and disabled citizen's property tax deduction to
18 manufactured home owners as provided in this act, is approved by the
19 voters, and shall apply to the tax year next following the date of
20 approval and thereafter.

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22

23

STATEMENT

24

25 This bill extends the senior citizen's and disabled citizen's \$250
26 property tax deduction to qualified citizens and their widows who own
27 manufactured homes, or mobile homes, installed in mobile home parks
28 who are assessed a municipal services fee by municipal ordinance
29 pursuant to the "Manufactured Home Taxation Act," P.L.1983, c.400
30 (C.54:4-1.2 et seq.). Under that act, mobile home owners in mobile
31 home parks are not subject to real property taxation and are therefore
32 not eligible to apply for the deduction. However, they can be assessed
33 a municipal service fee to cover the cost of municipal and local
34 services they receive, and should be treated as other property owners
35 who may qualify for the deduction. Mobile homes not in mobile home
36 parks, whether or not on land owned by the homeowner, are assessed
37 for real property taxes and therefore are eligible for the deduction.

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42 _____
43 Extends the senior citizen's property tax deduction to certain qualified
persons who reside in mobile home parks.